

REMARKS

Claims 4-14, 16-19 and 31-35 are pending in this application. By this Amendment, withdrawn claims 1-3, 15, and 20-30 are canceled without prejudice to or disclaimer of the subject matter contained therein, claims 5, 13 and 17 are canceled without prejudice to or disclaimer of the subject matter contained therein, the specification and claims 4, 6, 12, 14, 16, and 18 are amended, and claims 31-35 are added. Claims 31-34 are generic to at least elected species II (Figs. 1, 5-6) and non-elected species III (Figs. 1 and 7). Claim 35 corresponds to Fig. 7, but depends from generic claim 33. No new matter is added.

Applicants thank the Examiner for the indication that claims 5, 6, 13, 14 and 17-19 contain allowable subject matter.

The Office Action objects to the drawings for not referencing a switch mechanism 400. This objection is respectfully traversed.

Drawing Fig. 5 shows a switch mechanism 500 and the corresponding specification was intended to consistently refer to this element as element 500. To remedy the noted informality, the specification is amended to change "switch mechanism 400" to --switch mechanism 500-- consistent with Fig. 5 and the remainder of the disclosure. No new matter is added. Accordingly, withdrawal of the objection is respectfully requested.

The Office Action rejects claims 4, 11, 12 and 16 under 35 U.S.C. §103(a) over U.S. Patent No. 4,097,057 to Power. This rejection is respectfully traversed.

Independent claims 4, 12, and 16 are amended to incorporate the features of allowable canceled claims 5, 13, and 17, respectively. As acknowledged in the Office Action, Power fails to teach or suggest such features. Accordingly, independent claims 4, 12, and 16 and claims dependent therefrom (including claim 11) define over Power and contain allowable subject matter. Withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 7-10 under 35 U.S.C. §103(a) over Power in view of U.S. Patent No. 4,379,988 to Mattatall. This rejection is respectfully traversed.

As admitted, Mattatall fails to overcome the deficiencies of Power with respect to independent claim 4. Accordingly, claims 7-10 are allowable for their dependence on an allowable base claim and for the additional features recited therein.

Withdrawal of the rejection is respectfully requested.

Claims 31-35 are added. Independent claim 31 recites a switch mechanism that switches off power to the logic circuit after a predetermined time period and is generic to at least elected species II (Figs. 1, 5-6) and non-elected species III (Figs. 1, 7). Independent claims 32-34 relate to a hearing aid storage case and corresponding method that determines whether a hearing aid within the case has been properly turned off and provides a visual cue as to whether the hearing aid was turned off. Independent claims 32-33 are generic to at least elected species II and non-elected species III. Claim 34 includes a reference signal and is also generic to species II and III. Claim 35 relates to Fig. 7, species III, but is allowable for its dependence on allowable generic base claim 33.

The combination of claims 31-35 are not taught by Power either alone or in combination with Mattatall.

Specifically, Power is directed to a testing apparatus that tests the frequency response of a hearing aid. Power is not concerned with the problem of battery life conservation during periods of non-use (storage) and has no reason to detect whether a hearing aid is turned off when placed in a storage case. Rather, because Power is for the express purpose of checking frequency response, one of ordinary skill would understand that the hearing aid must be turned on to be tested. Thus, Power fails to teach such a determination and fails to provide a visual cue that the hearing aid is properly turned off as recited in claims 31-35.

Moreover, with respect to independent claim 31, Power does not explicitly disclose a lid or a switch. In particular, Power fails to teach: (1) that the switch permits power to be transmitted to the logic circuit when the lid is open; and (2) that the switch transmits power to the logic circuit for only a predetermined period of time upon closing of the lid, the time period being sufficient to enable the logic circuit to determine whether the hearing aid is oscillating or turned off and actuating a visual cue of the hearing aid state. Although the Office Action asserts that switches are well known, the Patent Office cannot rely on an unsubstantiated assertion to support a finding of obviousness.

Mattatall fails to overcome the deficiencies of Power. Mattatall is directed to a battery charger case for a hearing aid and fails to teach or suggest detection of whether the hearing aid is on or off and fails to provide a visual cue of the same. Rather, visual indication in Mattatall indicates whether the hearing aid is being charged.

Accordingly, independent claims 31-33 define over these references. Dependent claims 34-35 are allowable for their dependence on an allowable base generic claim and for the additional features recited therein. Thus, at least upon indication of allowance of independent claim 33, claim 35 should be considered and allowed.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



Darle M. Short
Registration No. 29,213

Stephen P. Catlin
Registration No. 36,101

DMS:SPC/spc

Date: March 9, 2006

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE
AUTHORIZATION
Please grant any extension
necessary for entry;
Charge any fee due to our
Deposit Account No. 15-0461